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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, TUAN HOANG

ART UNIT	PAPER NUMBER
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2618

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11/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/531,930	Applicant(s) DE WIT ET AL.	
	Examiner TUAN H. NGUYEN	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-22 is/are pending in the application.
- 4a) Of the above claim(s) 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ma et al. (U.S PAT. 6,819,924 hereinafter, "Ma") in view of Renney (U.S PAT. 5,939,981).
2. Claim 12 canceled.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1-7, 9-11, 13-16 and 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al. (U.S PAT. 6,819,924 hereinafter, "Ma") in view of Renney (U.S PAT. 5,939,981).

Consider claim 1, Ma teaches a consumer electronic device, comprising: an output means able to generate a human perceptual signal (col. 4 lines 15-32); a transmitter able to transmit a human non-perceptual signal (col. 3 lines 31-40); and a control unit configured to control the output means, to create a representation of the human perceptual signal (col. 3 lines 31-40), and to instruct the transmitter to broadcast a human non-perceptual signal comprising the representation (col. 3 lines 31-40).

Ma does not explicitly show that the control unit is configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device.

In the same field of endeavor, Renney teaches the control unit is configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device (col. 6 lines 11-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the control unit is configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device, as taught by Renney, in order to provide feature of the is that a speaker is electrically connected to a microprocessor such that as the housing is brought closer to the remote member the volume increases.

Consider claim 2, Renney further teaches the output means comprises at least one of a speaker and a headphone (col. 6 lines 11-23 i.e., the handheld device included a speaker and a headphone).

Consider claim 3, Ma further teaches the output means comprises a display (col. 4 lines 26-33).

Consider claim 4, Ma further teaches the control unit is able to instruct the transmitter to transmit a human non-perceptual signal comprising an identifier identifying the human perceptual signal (col. 3 lines 31-40).

Consider claim 5, Ma further teaches a receiver able to receive a further human non-perceptual signal, the control unit is able to use the receiver to detect a free time-slot in a transmission medium, and the control unit is able to instruct the transmitter to transmit the human non-perceptual signal in the free time-slot (col. 3 lines 31-40).

Consider claim 6, Ma further teaches a receiver able to receive a further human non-perceptual signal, the control unit is able to use the receiver to receive a control signal, and the control unit is able to schedule own transmissions in accordance with the control signal (col. 3 lines 31-40).

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Consider claim 7, Renney further teaches a receiver able to receive a further human non-perceptual signal, the control unit is able to use the receiver to detect a level of occupation of a transmission medium, and the control unit is able to instruct the transmitter to adapt its transmission power in dependency of the level of occupation (col. 6 lines 11-33).

Consider claim 9, Ma teaches an electronic device, comprising: an output means for generating a human perceptual signal (col. 4 lines 15-32); a receiver able to receive a human non-perceptual signal (col. 3 lines 31-40); and a control unit configured to use the receiver to receive multiple human non-perceptual signals comprising representations of multiple further human perceptual signals (col. 3 lines 31-40) and able to instruct the output means to generate the human perceptual signal from the representations (col. 3 lines 31-40).

Ma does not explicitly show that the control unit is further configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device.

In the same field of endeavor, Renney teaches the control unit is further configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device (col. 6 lines 11-33).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the control unit is further configured to instruct the output means to make a received human perceptual signal more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device, as taught by Renney, in order to provide feature of the is that a speaker is electrically connected to a microprocessor such that as the housing is brought closer to the remote member the volume increases.

Consider claim 10, Ma further teaches an input means for enabling a user to select at least one of the representations and the control unit is able to instruct the output means to generate the human perceptual signal from the at least one of the representations (col. 3 lines 31-40).

Consider claim 11, Ma further teaches a communication means for establishing communication between users and the control unit is able to use the communication means to establish communication between a user of the electronic device and a user of a similar electronic device having transmitted a human non-perceptual signal comprising the at least one representation (col. 3 lines 31-40).

Consider claim 13, Ma further teaches the control unit is able to use the receiver to receive multiple human non-perceptual signals comprising representations of

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acoustic signals (col. 3 lines 31-40).

Consider claim 14, Ma further teaches the control unit is able to use the receiver to receive multiple human non-perceptual signals comprising representations of visual signals (col. 3 lines 31-40).

Consider claim 15, Renny further teaches the control unit is able to use the receiver to receive a human non-perceptual signal comprising an identifier identifying a further human perceptual signal and able to instruct a display to display the identifier (col. 6 lines 11-33).

Consider claim 16, Ma further teaches the control unit is able to use a storage means to store at least one of: an identifier identifying a further human perceptual signal and at least a part of the representation of the further human perceptual signal (col. 3 lines 41-55).

Consider claim 18, Ma further teaches the control unit is able to use the receiver to receive a human non-perceptual signal comprising an identifier identifying a further human perceptual signal (col. 4 lines 15-32); further comprised is an input means for enabling a user to request additional information (col. 3 lines 31-40); further comprised is a transmitter able to transmit a human non-perceptual signal (col. 3 lines 31-40); the

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control unit is able to instruct the transmitter to transmit a human non-perceptual signal comprising a request for information and the identifier (col. 2 lines 14-23).

Ma does not explicitly show that the control unit is able to use the receiver to receive a human non-perceptual signal comprising additional information.

In the same field of endeavor, Renney teaches the control unit is able to use the receiver to receive a human non-perceptual signal comprising additional information (col. 6 lines 11-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the control unit is able to use the receiver to receive a human non-perceptual signal comprising additional information, as taught by Renney, in order to provide feature of the is that a speaker is electrically connected to a microprocessor such that as the housing is brought closer to the remote member the volume increases.

Consider claim 19, Ma teaches method of making content available, comprising the acts of: creating a representation of a human perceptual signal generated by a first electronic device (col. 3 lines 31-40).

Ma does not explicitly show that broadcasting the representation for playback of the human perceptual signal by a second electronic device as more noticeable if the second electronic device is near the first consumer electronic device and less noticeable if second electronic device is remote from the first electronic device.

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In the same field of endeavor, Renney teaches broadcasting the representation for playback of the human perceptual signal by a second electronic device as more noticeable if the second electronic device is near the first consumer electronic device and less noticeable if second electronic device is remote from the first electronic device (col. 6 lines 11-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, broadcasting the representation for playback of the human perceptual signal by a second electronic device as more noticeable if the second electronic device is near the first consumer electronic device and less noticeable if second electronic device is remote from the first electronic device, as taught by Renney, in order to provide feature of the is that a speaker is electrically connected to a microprocessor such that as the housing is brought closer to the remote member the volume increases.

Consider claim 20, Ma teaches a method of accessing new content, comprising the acts of: receiving representations of human perceptual signals (col. 4 lines 15-32); and generating a human perceptual signal from the representations (col. 3 lines 31-40).

Ma does not explicitly show that the generated human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device.

In the same field of endeavor, Renney teaches the generated human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device (col. 6 lines 11-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the generated human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device, as taught by Renney, in order to provide feature of the is that a speaker is electrically connected to a microprocessor such that as the housing is brought closer to the remote member the volume increases.

Consider claim 21, Ma teaches system for sharing human perceptual signals, comprising: a component able to create and broadcast a first representation of a first human perceptual signal (col. 4 lines 15-32); a component able to create and broadcast a second representation of a second human perceptual signal (col. 3 lines 31-40); and a component able to receive the first and the second representation and able to generate a third human perceptual signal from the first and the second representation (col. 3 lines 31-40).

Ma does not explicitly show that the third human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device.

In the same field of endeavor, Renney teaches the third human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device (col. 6 lines 11-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the third human perceptual signal is more noticeable if it is received from a nearby further electronic device and less noticeable if it is received from a remote further electronic device, as taught by Renney, in order to provide feature of the is that a speaker is electrically connected to a microprocessor such that as the housing is brought closer to the remote member the volume increases.

Consider claim 22, Ma teaches a computer readable medium embodying a computer program comprising instructions for: receiving representations of human perceptual signals (col. 4 lines 15-32); and generating a human perceptual signal from the representations (col. 3 lines 31-40).

Ma does not explicitly show that the generated human perceptual signal is more noticeable if it is received from a nearby electronic device and less noticeable if it is received from a remote electronic device.

In the same field of endeavor, Renney teaches the generated human perceptual signal is more noticeable if it is received from a nearby electronic device and less noticeable if it is received from a remote electronic device (col. 6 lines 11-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, the generated human perceptual signal is more

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noticeable if it is received from a nearby electronic device and less noticeable if it is received from a remote electronic device, as taught by Renney, in order to provide feature of the is that a speaker is electrically connected to a microprocessor such that as the housing is brought closer to the remote member the volume increases.

5. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma in view of Renney and further in view of Foschini et al. (U.S. PUB. 2002/0136231 hereinafter, "Foschini").

Consider claim 8, Ma and Renney, in combination, fail to teach characterized in that the control unit is able to instruct the transmitter to transmit a human non-perceptual signal comprising transmission power of the transmitter.

However, Foschini teaches characterized in that the control unit is able to instruct the transmitter to transmit a human non-perceptual signal comprising transmission power of the transmitter (page 3 [0034]).

Therefore, it is obvious to one of ordinary skill in the art at the time the invention was made to incorporate the disclosing of Foschini into view of Ma and Renney, in order to provide a greater interference reduction than if multi-user detection was used on both links, while is being more practical and engendering less processing and at a lower cost than if dirty paper coding was used on both links.

Consider claim 17, Foschini further teaches characterized in that the receiver is able to receive a human non-perceptual signal comprising a geographical position of a further electronic device transmitting a human non-perceptual signal comprising a representation of a further human perceptual signal (page 2 [0019]).

Conclusion

6. Any response to this action should be mailed to:

Mail Stop_____ (Explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Facsimile responses should be faxed to:

(571) 273-8300

Hand-delivered responses should be brought to:

Customer Service Window

Randolph Building

401 Dulany Street

Alexandria, VA 22313

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan H. Nguyen whose telephone number is (571)272-8329. The examiner can normally be reached on 8:00Am - 5:00Pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maung Nay A. can be reached on (571)272-7882882. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information Consider the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan Nguyen/
Examiner
Art Unit 2618

/Nay A. Maung/
Supervisory Patent Examiner, Art
Unit 2618